

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the Application of New Century Telecom, Inc., (U-5912-C) for Approval of Stock Purchase Agreement and Related Transfer of Control.

Application 02-10-007  
(Filed October 8, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REQUIRING THE APPLICANT TO FILE  
A SECOND AMENDMENT TO THE APPLICATION**

**1. Summary**

New Century Telecom, Inc., (NCT) shall file an amendment to Application (A.) 02-10-007 that contains the following information:

1. NCT's financial statements for 2003.
2. The number of customers that NCT had in California as of the last day of each month during the period of April 2003 through April 2004. If NCT wishes, it may report the number of customers on another day of the month (e.g., the 15<sup>th</sup> day of each month), so long as the same day is used for each month.
3. There have been dozens of informal complaint filed at the Commission alleging slamming and other abuses since Ms. Bartel assumed controlled of NCT. No complaints were filed during the two-year period prior to Bartel assuming control.
  - a. Please provide an explanation for the heightened level of informal complaints since Bartel assumed control.
  - b. What steps as NCT taken to reduce or eliminate informal complaints?

4. Shortly after Bartel assumed control of NTC, there was a surge in (i) PIC disputes (i.e., slamming) reported by SBC California and Verizon California, Inc., and (ii) crams reported by NTC's billing aggregator.
  - a. Please provide an explanation for the surge of reported slams and crams after Bartel assumed control.
  - b. What steps has NCT taken to reduce or eliminate slams and crams?
5. What facilities-based carrier(s) did NTC use to provide service in California for each month during the period of April 2003 through April 2004?
6. What billing aggregators other entities did NTC to use to bill customers in California for each month during the period of April 2003 through April 2004? Did NTC perform the billing function itself during any part of this period? If so, for what period of time?
7. Please explain why A.02-10-007 should not be denied in light of significantly higher level of complaints and reported slams and crams since Bartel assumed control of NTC.
8. Are there any regulatory actions, proceedings, or complaints (collectively, "complaints") alleging fraud or significant wrongdoing with respect to Bartel or NCT that have been decided by, or are currently pending at, the California Public Utilities Commission, the Federal Communications Commission, or other state commissions?
  - a. If so, please identify and describe all such complaints and provide a copy of the complaints.
  - b. Please explain why A.02-10-007 should not be denied in light of such complaints.

9. Commission records indicate that NCT may not have remitted regulatory surcharges for the one-year period of July 2002 through June 2003. Is this correct? If so, please remit the required amounts. If not, please provide proof of remittance.

NCT shall file an amendment containing the above information at the Commission's Docket Office by no later than June 3, 2004. The contents of the amendment shall be verified in accordance with Rule 2.4 of the Commission's Rules of Practice and Procedure. NCT shall also send an electronic copy of the amendment to the assigned ALJ via email at tim@CPUC.ca.gov. The electronic copy should be in Microsoft Word.

If NCT fails to timely file the amendment, the assigned ALJ may issue a proposed decision that does the following:

- Dismisses A.02-10-007 for failure to prosecute.
- Deems the transfer of control to be null and void under Pub. Util. Code § 854(a).

Questions regarding this ruling may be sent to Administrative Law Judge Kenney via email at tim@cpuc.ca.gov.

Therefore, **IT IS RULED** that:

1. New Century Telecom, Inc. (NCT) shall file and serve by June 3, 2004, an amendment to Application (A.) 02-10-007 that contains the information specified in the body of this ruling.
2. The contents of the amendment shall be verified in accordance with Rule 2.4 of the Commission's Rules of Practice and Procedure.
3. NCT shall send an electronic copy of the amendment to the assigned ALJ via email at tim@cpuc.ca.gov. The electronic copy must be in Microsoft Word.

4. Failure to file the amendment by June 3, 2004, may result in a recommended order that (i) dismisses A.02-10-007 for failure to prosecute, and (ii) deems the transfer of control of NCT to be null and void under Pub. Util. Code § 854(a).

Dated May 19, 2004, at San Francisco, California.

/s/ TIMOTHY KENNEY

---

Timothy Kenney  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring the Applicant to File a Second Amendment the Application on all parties of record in this proceeding or their attorneys of record.

Dated May 19, 2004, at San Francisco, California.

/s/ FANNIE SID

---

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.